

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

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| MARTY A. SONS, ET AL., |) | |
| |) | |
| Plaintiffs, |) | Case No. 7:12CV00448 |
| |) | |
| v. |) | OPINION |
| |) | |
| JUDGE PHILIP TROMPETER, ET AL., |) | By: James P. Jones |
| |) | United States District Judge |
| Defendants. |) | |

The plaintiffs have filed a second pro se action following the dismissal of a prior action. Because this action is similarly without merit, I will grant leave to proceed in forma pauperis but dismiss the case as frivolous. 28 U.S.C.A. § 1915(e)(2)(B)(i) (West 2006).

On June 15, 2012, the plaintiffs filed an action in this court against a state court judge, one of the plaintiff's court-appointed attorneys, the Commonwealth of Virginia, Roanoke County, Virginia, and its Department of Social Services. The plaintiffs alleged various state and federal causes of action arising from divorce and child support proceedings in Virginia. On June 27, 2012, and June 29, 2012, this court granted leave to proceed in forma pauperis, but dismissed the action, holding that the defendants were either immune from suit or that the Complaint did not state any plausible claim under state or federal law. *See Sons v. Trompeter*,

No. 7:12CV00264, 2012 WL 2450563 (W.D. Va. June 27, 2012), *as amended by* No. 7:12CV00264 (W.D. Va. June 29, 2012).

No appeal was taken. Instead, the plaintiffs submitted the present action on September 24, 2012. The only difference between the two cases is that in the present Complaint the state-law causes of action are dropped and new purported federal causes of action are added. In addition, certain factual allegations concerning the divorce and child support proceedings as contained in the first Complaint are omitted.

The new federal claims are meritless. Counts III, IV, VII, and IX reference federal crimes, not civil causes of action. Counts V and VI involve the Federal Tort Claims Act, which does not cover the state officials sued.

The court may dismiss frivolous cases sua sponte, *Cochran v. Morris*, 73 F.3d 1310, 1315-16 (4th Cir. 1996). A frivolous claim lacks “an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A claim lacks an arguable basis in law when it is “based on an indisputably meritless legal theory.” *Id.* at 327. Because the principal defendants in this case are immune from suit and no plausible claim is stated as to the remaining defendants, this action must be dismissed as frivolous.

A separate final order will be entered herewith.

DATED: October 2, 2012

/s/ James P. Jones
United States District Judge